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**ARIZONA CORPORATION COMMISSION**

April 9, 2008

Ms. Marlene Dortch, Secretary  
FEDERAL COMMUNICATIONS COMMISSION  
445 12th Street SW  
Washington, D.C. 20554

Re: Joint Petition of Accipiter Communications, Inc., and Qwest Corporation for Waiver of the Definition of "Study Area" of the Appendix, Glossary of Part 36 of the Commission's Rules, Petition for Waiver of Section 69.3(e)(11) of the Commission's Rules (CC Doc. No. 96-45)

Dear Secretary Dortch:

This letter supplements my previous letter to you dated February 22, 2007, in the above-referenced docket. As you may be aware, on October 11, 1995, the Arizona Corporation Commission ("Arizona Commission") issued Decision 59346 granting a certificate of convenience and necessity ("CC&N") to Accipiter Communications, Inc., which now does business under the trade name Zona Communications ("Zona"), to provide incumbent local exchange carrier ("ILEC") services in rural portions of Maricopa and Yavapai Counties, Arizona.<sup>1</sup> On August 22, 2002, Zona filed an application with the Arizona Commission in Docket T-02847A-02-0641 to extend its CC&N to include approximately four sections of land in northwest Maricopa County near Lake Pleasant (the "Extension Territory") that were included on the service area maps of Qwest Corporation ("Qwest"). The Extension Territory included a significant portion of the southern end of a master planned development known as Vistancia. Zona already held the CC&N for the northern portion of Vistancia under Decision 59346. On December 23, 2003, Qwest filed a response to Zona's request stating that Qwest agreed to the transfer of the Extension Territory to Accipiter. Qwest reportedly had no customers or facilities in the Extension Territory. In our Decision 67574 (February 15, 2005), we approved the transfer of the Extension Territory to Zona, thereby making Zona the ILEC and carrier of last resort for all of the Vistancia master planned development.<sup>2</sup>


<sup>1</sup> *In the Matter of the Application of Accipiter Communications Inc., a Nevada Corporation, for a Certificate of Convenience and Necessity Authorizing the Construction and Operation of a Public Utility Telephone System in Portions of Maricopa and Yavapai Counties, Arizona*, Docket No. U-2847-95-026, Decision 59346 (October 11, 1995).

<sup>2</sup> *In the Matter of the Application of Accipiter Communications Inc., to extend its Certificate of Convenience and Necessity in Maricopa County*, Docket No. T-02847A-02-0641, Decision 67574 (February 15, 2005).

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The Arizona Commission is aware that Zona has applied to the Federal Communications Commission ("FCC") in CC Docket No. 96-45 for a study area waiver which would allow the inclusion of the Extension Territory in Zona's study area. As the ILEC holding the CC&N to serve Vistancia, Zona is the carrier of last resort within the Extension Territory which includes the Vistancia master planned development and other non-developed rural land. In our Decision 67574 the Arizona Commission held that Zona's CC&N extension request was in the public interest (Decision 67574 at 30). We encourage the FCC to do the same and approve the study area waiver.

Very truly yours,

  
for Ernest G. Johnson  
Director, Utilities Division

cc: Dana R. Shaffer  
Jeremy Marcus  
Amy Bender  
Jennifer McKee  
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